

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

STEPHANIE PEIROLO,

Plaintiff,

v.

SEDGWICK RD. INC., a Washington  
corporation; INTERPUBLIC GROUP OF  
COMPANIES, INC., a Delaware corporation;  
UNITEDHEALTH CARE, Inc., a Delaware  
corporation; UNITEDHEALTH GROUP, a  
Minnesota corporation; and JOHN DOES 1-3,

Defendants.

CASE NO. C04-2437C

ORDER

This matter has come before the Court on Defendant UnitedHealth's motion for summary judgment (Dkt. No. 24). For the reasons that follow, the motion is hereby GRANTED in part and DENIED without prejudice in part.

Defendant UnitedHealth moved for summary judgment dismissing Plaintiff's ERISA claim against it. In large part, Defendant's motion relied on "admissions" made by Plaintiff through her failure to respond appropriately to Defendant's requests for admissions. However, the Court having allowed Plaintiff another opportunity to respond to these requests, it would be premature for the Court to address

1 Defendant's motion at this time.<sup>1</sup>

2 The exception to the above holding is Defendant UnitedHealth's motion to dismiss Plaintiff's  
3 emotional distress claims against it. Plaintiff's response failed to oppose this portion of Defendant's  
4 motion. Accordingly, this portion of Defendant's motion is GRANTED pursuant to Local Rule  
5 CR 7(b)(2). The remainder of Defendant's motion is DENIED without prejudice.

6 SO ORDERED this 22nd day of February, 2006.

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10 UNITED STATES DISTRICT JUDGE  
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24 <sup>1</sup>That portion of Defendant's reply brief citing *Herter v. Dick's Clothing & Sporting Goods, Inc.*,  
25 58 F. Supp. 2d 306 ( S.D.N.Y. 1999) is hereby stricken as a new argument presented in a reply to which  
26 Plaintiff had no opportunity to respond.